

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1271**

**Introduced by Assembly Member Blakeslee**

February 22, 2005

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An act to ~~add Section 13275 to~~ *amend Section 13269* of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1271, as amended, Blakeslee. ~~Irrigated agricultural waste discharges: monitoring.~~ *Water: Central Coast Agricultural Best Management Practices Pilot Project.*

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality. ~~The act requires the state board and the regional boards to prescribe waste discharge requirements and authorizes those state agencies, under certain circumstances, to waive those requirements as to a specific discharge or type of discharge.~~

This bill would ~~prohibit~~ *require* the Central Coast Regional Water Quality Control Board ~~from requiring a person who is subject to a conditional waiver for irrigated agricultural discharges to monitor those discharges more than once every 2 years if that regional board makes a specified determination to conduct a 5-year pilot project, to be known as the Agricultural Best Management Practices Pilot Project, in order to promote clean water practices in the region within the jurisdiction of that regional board. The bill would require that regional board to define and adopt achievable, attainable agricultural best management practices, based on current scientific findings, on or~~

*before January 1, 2007. The bill would specify possible limitations on the scope of the pilot project.*

*The bill would require that regional board to report the results of the pilot program to the Legislature at the conclusion of the pilot project.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 13275 is added to the Water Code, to~~  
2     ~~read:~~

3     ~~SECTION 1. Section 13269 of the Water Code is amended to~~  
4     ~~read:~~

5     13269. (a) (1) On and after January 1, 2000, the provisions  
6     of subdivisions (a) and (c) of Section 13260, subdivision (a) of  
7     Section 13263, or subdivision (a) of Section 13264 may be  
8     waived by the state board or a regional board as to a specific  
9     discharge or type of discharge if the state board or a regional  
10    board determines, after any necessary state board or regional  
11    board meeting, that the waiver is consistent with any applicable  
12    state or regional water quality control plan and is in the public  
13    interest. The state board or a regional board shall give notice of  
14    any necessary meeting by publication pursuant to Section 11125  
15    of the Government Code.

16    (2) A waiver may not exceed five years in duration, but may  
17    be renewed by the state board or a regional board. The waiver  
18    shall be conditional and may be terminated at any time by the  
19    state board or a regional board. The conditions of the waiver  
20    shall include, but need not be limited to, the performance of  
21    individual, group, or watershed-based monitoring, except as  
22    provided in paragraph (3). Monitoring requirements shall be  
23    designed to support the development and implementation of the  
24    waiver program, including, but not limited to, verifying the  
25    adequacy and effectiveness of the waiver's conditions. In  
26    establishing monitoring requirements, the regional board may  
27    consider the volume, duration, frequency, and constituents of the  
28    discharge; the extent and type of existing monitoring activities,  
29    including, but not limited to, existing watershed-based,  
30    compliance, and effectiveness monitoring efforts; the size of the

1 project area; and other relevant factors. Monitoring results shall  
2 be made available to the public.

3 (3) (A) The state board or a regional board may waive the  
4 monitoring requirements described in this subdivision for  
5 discharges that it determines do not pose a significant threat to  
6 water quality.

7 (B) (i) *The Agricultural Best Management Practices Pilot*  
8 *Project, a five-year pilot program, is hereby established in order*  
9 *to promote clean water practices within the jurisdiction of the*  
10 *Central Coast Regional Water Quality Control Board.*

11 (ii) *On or before January 1, 2007, the Central Coast Regional*  
12 *Water Quality Control Board shall define and adopt achievable,*  
13 *attainable agricultural best management practices, based on*  
14 *current scientific findings, such as those identified in the Natural*  
15 *Resources Conservation Services "short courses," which, if*  
16 *implemented by an agricultural operation, would ensure that*  
17 *discharges do not pose a threat as described in subparagraph*  
18 *(A).*

19 (iii) *The scope of the pilot project established by this section*  
20 *may be limited to all of the following:*

21 (I) *Agricultural operations that do not directly discharge into*  
22 *a waterbody that is designated as impaired within the meaning of*  
23 *Section 303(d) of the federal Clean Water Act (33 U.S.C. Sec.*  
24 *1313(d)).*

25 (II) *Particular industries, crops, watersheds, and geographic*  
26 *regions, as determined by the Central Coast Regional Water*  
27 *Quality Control Board.*

28 (III) *Agricultural operations that provide necessary*  
29 *documentation to demonstrate that they are in compliance with*  
30 *the adopted agricultural best management practices.*

31 (iv) *At the conclusion of the pilot project, the Central Coast*  
32 *Regional Water Quality Control Board shall report to the*  
33 *Legislature the results of the pilot program established pursuant*  
34 *to this section. This report shall include, but not necessarily be*  
35 *limited to, all of the following:*

36 (I) *The agricultural best management practices adopted as*  
37 *standards by that regional board.*

38 (II) *The number and type of agricultural operations that*  
39 *adopted agricultural best management practices as a result of*  
40 *the pilot project.*

1     (III) *The estimated improvements in water quality produced by*  
2     *the pilot project.*

3     (4) (A) The state board or a regional board may include as a  
4     condition of a waiver the payment of an annual fee established by  
5     the state board in accordance with subdivision (f) of Section  
6     13260.

7     (B) Funds generated by the payment of the fee shall be  
8     deposited in the Waste Discharge Permit Fund for expenditure,  
9     upon appropriation by the Legislature, by the state board or  
10    appropriate regional board for the purpose of carrying out  
11    activities limited to those necessary to establish and implement  
12    the waiver program pursuant to this section. The total amount of  
13    annual fees collected pursuant to this section shall not exceed the  
14    costs of those activities necessary to establish and implement  
15    waivers of waste discharge requirements pursuant to this section.

16    (C) In establishing the amount of a fee that may be imposed on  
17    irrigated agriculture operations pursuant to this section, the state  
18    board shall consider relevant factors, including, but not limited  
19    to, all of the following:

20    (i) The size of the operations.

21    (ii) Any compliance costs borne by the operations pursuant to  
22    state and federal water quality regulations.

23    (iii) Any costs associated with water quality monitoring  
24    performed or funded by the operations.

25    (iv) Participation in a watershed management program  
26    approved by the applicable regional board.

27    (D) In establishing the amount of a fee that may be imposed  
28    on silviculture operations pursuant to this section, the state board  
29    shall consider relevant factors, including, but not limited to, all of  
30    the following:

31    (i) The size of the operations.

32    (ii) Any compliance costs borne by the operations pursuant to  
33    state and federal water quality regulations.

34    (iii) Any costs associated with water quality monitoring  
35    performed or funded by the operations.

36    (iv) The average annual number of timber harvest plans  
37    proposed by the operations.

38    (5) The state board or a regional board shall give notice of the  
39    adoption of a waiver by publication within the affected county or  
40    counties as set forth in Section 6061 of the Government Code.

1 (b) (1) A waiver in effect on January 1, 2000, shall remain  
2 valid until January 1, 2003, unless the regional board terminates  
3 that waiver prior to that date. All waivers that were valid on  
4 January 1, 2000, and granted an extension until January 1, 2003,  
5 and not otherwise terminated, may be renewed by a regional  
6 board in five-year increments.

7 (2) Notwithstanding paragraph (1), a waiver for an onsite  
8 sewage treatment system that is in effect on January 1, 2002,  
9 shall remain valid until June 30, 2004, unless the regional board  
10 terminates the waiver prior to that date. Any waiver for onsite  
11 sewage treatment systems adopted or renewed after June 30,  
12 2004, shall be consistent with the applicable regulations or  
13 standards for onsite sewage treatment systems adopted or  
14 retained in accordance with Section 13291.

15 (c) Upon notification of the appropriate regional board of the  
16 discharge or proposed discharge, except as provided in  
17 subdivision (d), the provisions of subdivisions (a) and (c) of  
18 Section 13260, subdivision (a) of Section 13263, and subdivision  
19 (a) of Section 13264 do not apply to a discharge resulting from  
20 any of the following emergency activities:

21 (1) Immediate emergency work necessary to protect life or  
22 property or immediate emergency repairs to public service  
23 facilities necessary to maintain service as a result of a disaster in  
24 a disaster-stricken area in which a state of emergency has been  
25 proclaimed by the Governor pursuant to Chapter 7 (commencing  
26 with Section 8550) of Division 1 of Title 2 of the Government  
27 Code.

28 (2) Emergency projects undertaken, carried out, or approved  
29 by a public agency to maintain, repair, or restore an existing  
30 highway, as defined in Section 360 of the Vehicle Code, except  
31 for a highway designated as an official state scenic highway  
32 pursuant to Section 262 of the Streets and Highways Code,  
33 within the existing right-of-way of the highway, damaged as a  
34 result of fire, flood, storm, earthquake, land subsidence, gradual  
35 earth movement, or landslide within one year of the damage.  
36 This paragraph does not exempt from this section any project  
37 undertaken, carried out, or approved by a public agency to  
38 expand or widen a highway damaged by fire, flood, storm,  
39 earthquake, land subsidence, gradual earth movement, or  
40 landslide.

(d) Subdivision (c) is not a limitation of the authority of a regional board under subdivision (a) to determine that any provision of this division shall not be waived or to establish conditions of a waiver. Subdivision (c) shall not apply to the extent that it is inconsistent with any waiver or other order or prohibition issued under this division.

(e) The regional boards and the state board shall require compliance with the conditions pursuant to which waivers are granted under this section.

(f) Prior to renewing any waiver for a specific type of discharge established under this section, the state board or a regional board shall review the terms of the waiver policy at a public hearing. At the hearing, the state board or a regional board shall determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements.

~~13275. (a) Notwithstanding any other provision of law, the Central Coast Regional Water Quality Control Board shall not require a person who is subject to a conditional waiver for irrigated agricultural discharges to monitor those discharges more than once every two years if that regional board determines that the results of the most recent monitoring with regard to those discharges establish that those discharges contain only a minimal amount of waste.~~

~~(b) For the purposes of this section, "minimal amount of waste" means \_\_\_\_\_.~~